

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RONY ZAKARIA,

Plaintiff,

- against -

NATIONAL PUBLIC RADIO, INC.

Defendant.

Docket No. 17-cv-6717

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Rony Zakaria (“Zakaria” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant National Public Radio, Inc., (“NPR” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of the Indonesian teenage girl metal band called Voice of Baceprot owned and registered by Zakaria, an award-winning Jakarta based photojournalist. Accordingly, Zakaria seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacting doing business in New York and is registered to do business in the State of New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Zakaria is an award-winning professional photojournalist in the business of licensing his photographs to online and print media for a fee having a usual place of business at Jalan Kebon Jeruk No. 50A Rawa Belong, Palmerah, Jakarta Barat 11480, Indonesia. His awards, grants and fellowships include the National Press Photographers Best of Photojournalism, the Mochtar Lubis Award Grant, The Roberto del Carlo Award, First Prize in the Tempo Best of Photojournalism, Konrad Adenauer Asian Center of Journalism Fellowship and the United Nations FAO Media Partnership Grant. Zakaria's works has appeared in exhibitions such as the Photolux Festival, Beijing Photo Festival, Foreign Correspondence Club, Forum Fotografie, Singapore International Photo Festival and many more.

6. Upon information and belief, NPR is a foreign not-for-profit corporation duly organized and existing under the laws of the District of Columbia, with a place of business at 11 West 42nd Street, New York, New York 10036. Upon information and belief, NPR is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, NPR has owned and operated a website at the URL: www.NPR.org (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Zakaria photographed the Indonesian metal band Voice of Baceprot (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Zakaria is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-053-033.

B. Defendant’s Infringing Activities

10. On August 9, 2017, NPR ran an article on the Website entitled *Meet Voice of Baceprot, The All-Girl Metal Band Making Waves In Indonesia*. See <http://www.npr.org/2017/08/09/542238928/meet-voice-of-baceprot-the-all-girl-metal-band-making-waves-in-indonesia>. The article prominently featured the Photograph. A true and correct copy of the article with the Photograph is attached hereto as Exhibit B.

11. NPR did not license the Photograph from Plaintiff for its article, nor did NPR have Plaintiff’s permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST NPR)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. NPR infringed Plaintiff’s copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. NPR is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by NPR have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Defendant be enjoined from copying, reproducing, distributing, adapting, or publically displaying Plaintiff's Photograph pursuant to 17 U.S.C. § 502;
3. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
6. That Plaintiff be awarded pre-judgment interest; and

7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
September 4, 2017

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